

REMARKS

Administrative Overview

After entry of this Response, claims 1–12 will be pending.

In the Office Action mailed on October 3, 2007, claims 1–12 were rejected for nonstatutory double patenting. Claims 1–4 were rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter, and 35 U.S.C. § 112, ¶ 2 as being indefinite for failing to particularly point out and claim the subject matter which the applicant regards as the invention. Claims 9–12 were rejected under 35 U.S.C. § 112, ¶ 1 for undue breadth. Claims 1–12 were also rejected under 35 U.S.C. § 103 as unpatentable over U.S. Patent No. 5,239,462 to Jones et al. (hereinafter “Jones”) in view of U.S. Patent No. 5,611,052 to Dykstra et al. (hereinafter “Dykstra”).

A Terminal Disclaimer is Enclosed to Overcome the Double Patenting Rejection

Claims 1–12 were rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1–8 of U.S. Patent No. 7,181,427.

Applicant submits herewith a terminal disclaimer in compliance with 37 C.F.R. § 1.321(c), disclaiming over U.S. Patent No. 7,181,427. The Commissioner is hereby authorized to charge the requisite fee to Deposit Account No. 07-1700.

The Amended Claims Satisfy 35 U.S.C. § 101

Claims 1–4 were rejected under 35 U.S.C. § 101 “because the claimed invention is directed to non-statutory subject matter, particularly, an abstract idea.” In particular, claims 1–4 were said to concern functional descriptive matter per se, and it was suggested that amendment to recite functional descriptive matter recorded on a computer readable medium may address this problem.

As amended, claims 1–4 now recite a “computer readable medium comprising computer instructions to receive and route credit application information” and various component elements thereof. These amended claims clearly encompass statutory subject matter, as they recite functional descriptive matter recorded on a computer readable medium.

For these reasons, we respectfully submit that amended claims 1–4 satisfy the strictures of 35 U.S.C. § 101.

The Amended Claims Satisfy 35 U.S.C. § 112, ¶ 1

Claims 9–12 were rejected under 35 U.S.C. § 112, ¶ 1 “because the claims recite a single means (a processor).”

We respectfully submit that the foregoing amendments, which in part amend claims 9–12, address this rejection and respectfully request its withdrawal.

The Amended Claims Satisfy 35 U.S.C. § 112, ¶ 2

Claims 1–4 were rejected under 35 U.S.C. § 112, ¶ 2 “as being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention.” In particular, claims 1–4 were said to improperly use “means” clauses under 35 U.S.C. § 112, ¶ 6.

We respectfully submit that the foregoing amendments, which eliminate the “means” clauses at issue, address this rejection and respectfully request its withdrawal.

The Claims, as Amended, are Patentable over Jones and Dykstra

The three independent claims in this case—claims 1, 5, and 9—have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones in view of Dykstra.

For the Office to demonstrate a *prima facie* case of obviousness under 35 U.S.C. § 103, the supporting prior art references when combined must teach or suggest all of the limitations of the claim at issue. See MPEP § 2143. As discussed below, neither Jones or Dykstra, taken individually or in combination, teach or suggest all of the elements of the claims at issue.

As amended in this Response, all three of independent claims 1, 5, and 9 require “selectively forwarding said received credit application to a plurality of funding sources.” Independent claim 1 provides this element through executable instructions, and independent claim 9 provides this element through a configured processor.

The Office Action concedes on its face that Jones lacks the selective forwarding of a received credit application to one or more funding sources. Office Action at 8. In particular, it is worth noting that Jones lacks this element because it teaches facsimile communication of an exception report to a single lender. Jones at col. 7, ln. 3–8. Since the system of Jones communicates with a single lender, it cannot selectively forward a credit application to one or more funding sources.

The Office Action errs when it claims that Dykstra remedies this deficiency. Dykstra neither teaches nor suggests “selectively forwarding said received credit application to a plurality of funding sources.” In fact, Dykstra teaches away from the selective forwarding of an application to a plurality of funding sources, and instead teaches communications with a single funding source. Under Dykstra, a merchant “chooses a particular lender,” i.e., a single lender. Dykstra at col. 5, ln. 19–20. Dykstra therefore not only fails to satisfy all of the limitations of the present claims, it also teaches away from one of the requirements of the independent claims.

As noted in the previous paragraph, the portions of Dykstra cited for support in the rejection actually support Applicant’s position that Dykstra teaches communications with a single funding source, and not a plurality of funding sources. Dykstra clearly says that “Once communications is established, the merchant chooses a particular lender at step 104.” Col. 6, ln. 37–38 (emphasis added).

For these reasons, we respectfully submit that independent claims 1, 5, and 9, and the remaining claims, which depend therefrom, are patentable over Jones and Dykstra, either taken individually or in combination, and hereby request the withdrawal of these rejections.

CONCLUSION

In light of the foregoing, we respectfully submit that all of the pending claims are in condition for allowance. Accordingly, we respectfully request reconsideration, withdrawal of all grounds of rejection and objections, and allowance of all of the pending claims in due course.

If the Examiner believes that a telephone conversation with the Applicant's attorney would be helpful in expediting the allowance of this application, the Examiner is invited to call the undersigned at the number identified below.

Respectfully submitted,

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